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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,895	12/30/2005	Alain Bejean	94176	9332
24628 7590 09/21/2009 Husch Blackwell Sanders, LLP Husch Blackwell Sanders LLP Welsh & Katz 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606				
EXAMINER				
HENNING, MATTHEW T				
ART UNIT		PAPER NUMBER		
2431				
MAIL DATE		DELIVERY MODE		
09/21/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,895

Applicant(s)

BEJEAN, ALAIN

Examiner

MATTHEW T. HENNING

Art Unit

2431

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

This action is in response to the communication filed on 6/3/2009.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 6/3/2009 have been fully considered but they are not persuasive.

Regarding the applicant's argument that the relied upon art does not teach or suggest "disabling either the internal or external circuitry of the decoder that is used to place the decoder in the learning mode", the examiner does not find the argument persuasive. Newly claimed independent claim 12 requires "disabling at least one activation function that causes the command receiver to switch to the learning mode" and "preventing the command receiver from being switched into the learning mode by the disabled activation function". The applicant's appear to be arguing that in order to meet the claim language, the physical switch must be disabled. However, the examiner does not believe that the claims require the physical switch to be disabled, but rather only require that "at least one activation function" be disabled. In rejecting the claims, the "one activation function" is the learning mode of the master transmitter, which is disabled after the learning mode has been completed. Therefore, the examiner believes that the relied upon prior art meets the claim limitations, and as such has not found the argument persuasive.

All objections and rejections not set forth have been withdrawn.

Claims 2-12 have been examined.

Information Disclosure Statement

The information disclosure statement(s) (IDS) submitted on 6/3/2009 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statements.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heitschel et al. (US Patent Number Re. 35,364) hereinafter referred to as Heitschel, and further in view of Bruwer (US Patent Number 6,191,701).

Regarding claim 12, Heitschel disclosed a method of securing the learning mode of a device (receiver), the device including an assembly of at least one command transmitter (transmitter) communicating with a command receiver, the command receiver capable of being switched to a learning mode by at least one activation function and the command receiver capable of driving an element providing for the security and/or the comfort of a building (Heitschel Abstract and Col. 3 Lines 41-59), the method comprising: applying at least one action to a device of the assembly (Heitschel Col. 3 Lines 41-59 Switching to the Operate Position on the receiver); but Heitschel did not disclose that the "action" was applied to a particular

1 command transmitter of the assembly in order to disable the learning mode, or preventing the
2 command receiver from being switched into the learning mode by the disabled activation
3 function.

4 Bruwer, on the other hand, teaches that in order to improve the security of a
5 programmable receiver (decoder), instead of activating the learning mode on the receiver, a
6 master transmitter (master encoder) can be used to set the learning mode on the receiver (Bruwer
7 Col. 7 Line 62 – Col. 8 Line 5), and after the learning mode is complete the master transmitter is
8 set back to normal mode, and subsequently the receiver is set to normal mode (Bruwer Col. 8
9 Line 55-63). Bruwer further teaches that the master transmitter learning mode can be disabled in
10 order to prevent the learning mode from being activated using the master transmitter (Bruwer
11 Col. 17 Line 45 – Col. 18 Line 4).

12 It would have been obvious to the ordinary person skilled in the art at the time of
13 invention to have employed the teachings of Bruwer in the garage door opener system of
14 Heitschel by providing a master transmitter which is used to switch between the operating mode
15 and the programming mode, and further providing that the learning mode of the master
16 transmitter be disabled after programming the receiver. This would have been obvious because
17 the ordinary person skilled in the art would have been motivated to improve the security of the
18 coding system.

19 Regarding claim 2, Heitschel and Bruwer taught that the at least one action comprises at
20 least a first action that is undertook on at least one secure command transmitter and successively
21 or simultaneously at least a second action that is undertook on at least one other command

transmitter (See Bruwer Col. 7 Line 62 – Col. 8 Line 5 and Heitschel Col. 3 Line 60 – Col. 4 Line 22).

Regarding claim 3, Heitschel and Bruwer taught that the at least one action on the secure command transmitter activate the learning mode of the receiver (Bruwer Col. 7 Line 62 – Col. 8 Line 5).

Regarding claim 4, Heitschel and Bruwer taught that the at least one action on the secure command transmitter disables the at least one activation function of the learning mode with the exception of the at least one activation function of the secure command transmitters (See Bruwer Col. 7 Line 62 – Col. 8 Line 5 and Heitschel Col. 3 Line 60 – Col. 4 Line 22).

Regarding claim 5, Heitschel and Bruwer taught that the disabling of the activation function is irreversible (Bruwer Col. 7 Line 62 – Col. 8 Line 5).

Regarding claim 6, Heitschel and Bruwer taught that the disabling of the activation function is temporary (Heitschel Col. 3 Line 60 – Col. 4 Line 22).

Regarding claim 7, Heitschel and Bruwer taught that an action on a secure command transmitter causes, in the memory of the receiver, the erasure of the identity numbers of at least certain transmitters (Heitschel Col. 5 Lines 3-5).

Regarding claim 8, Heitschel and Bruwer taught a device intended to implement the method as claimed in claim 1, which device comprises at least one secure command transmitter (master transmitter), and possibly other command transmitters, communicating with a command receiver capable of driving an element providing for the security and/or the comfort of a building (See Bruwer Col. 7 Line 62 – Col. 8 Line 5 and Heitschel Col. 3 Line 60 – Col. 4 Line 22).

Regarding claim 9, Heitschel and Bruwer taught that the secure command transmitters comprise wireless means of remote communication with the command receiver (See Bruwer Col. 7 Line 62 – Col. 8 Line 5 and Heitschel Col. 3 Line 60 – Col. 4 Line 22).

Regarding claims 10-11, Heitschel and Bruwer taught that the secure command transmitters have two dimensions small enough so that the secure command transmitters are capable of being stored in a strongbox (Heitschel Fig. 1).

Conclusion

Claims 2-12 have been rejected.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW T. HENNING whose telephone number is (571)272-3790. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571)272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew T Henning/
Examiner, Art Unit 2431